

In the Matter of Merchant Mariner's Document No. Z-346944 and all
other Seaman Documents
Issued to: HAL J. SUGGS

DECISION OF THE COMMANDANT
UNITED STATES COAST GUARD

1064

HAL J. SUGGS

This appeal has been taken in accordance with Title 46 United States Code 239(g) and Title 46 Code of Federal Regulations 137.11-1.

By order dated 3 March 1958, an Examiner of the United States Coast Guard at New York, New York revoked Appellant's seaman documents upon finding him guilty of misconduct. The specification alleges that while serving as a messman on board the United States SS PRESIDENT GRANT under authority of the document above described, on or about 30 September 1955, Appellant assaulted a crew member, Raymond Randall, Jr., with a dangerous weapon.

At the beginning of the hearing, Appellant was given a full explanation of the nature of the proceedings, the rights to which he was entitled and the possible results of the hearing. Although advised of his right to be represented by counsel of his own choice, Appellant elected to waive that right and act as his own counsel. He entered a plea of not guilty to the charge and specification.

The Investigating Officer and Appellant made their opening statements. The Investigating Officer introduced in evidence several documentary exhibits including a certified copy of the record of Appellant's conviction as a result of the incident referred to in the above specification.

In defense, Appellant offered in evidence his sworn testimony. Appellant admitted that he stabbed Randall but claimed that this was done in self-defense when Randall started to get up from his chair and Appellant feared that he would be attacked by Randall.

At the conclusion of the hearing, the Examiner rendered a decision in which he concluded that the charge and specification had been proved. An order was entered revoking all documents issued to Appellant.

The decision was served on 3 March. Appeal was timely filed

on or before 31 March.

FINDINGS OF FACT

On 30 September 1955, Appellant was serving as a messman on board the United States SS PRESIDENT GRANT and acting under authority of his Merchant Mariner's Document No. Z-346944 while the ship was in the port of Naples, ITALY.

On this date, Appellant agreed to loan messman Raymond Randall, Jr., \$5.00 out of a \$10.00 bill. Randall was to return \$5.00 change to Appellant but he did not do so and even denied having borrowed any money when Appellant accosted Randall in the afternoon and asked him for the \$5.00. Shortly thereafter, the second cook loaned Randall \$10.00 to repay Appellant which fact was known to Appellant. When Appellant approached Randall at 2000 on the same dy and asked for the money, Randall said that he was not going to give it to Appellant. As Randall was getting up from the chair in which he had been sitting, Appellant stabbed Randall in the shoulder with a pocketknife which had a blade slightly more than two and one-half inches long. The over-all length of the knife was approximately six inches. Randall was hospitalized and rejoined the ship at another port. Appellant was arrested by the local authorities and later repatriated to the United States without having been tried as a result of this incident.

For this offense, Appellant was convicted, on 13 July 1956, before the United States District Court for the Eastern District of New York, on his plea of guilty to the charge of assault upon Randall on or about 30 September 1955, "with a dangerous weapon with intent to do bodily harm and without just cause or excuse. (Title 18, United States Code, Section 113)" Appellant was represented before the Court by counsel. He was sentenced to imprisonment for a period of two years.

Appellant's prior record consists of two suspensions in 1944 for failure to perform his duties on board ship.

BASES OF APPEAL

This appeal has been taken from the order imposed by the Examiner. Appellant contends that his request for an adjournment of the hearing until his counsel could appear was denied. Consequently, Appellant's defense was not properly presented because he was not represented by counsel.

OPINION

The record does not bear out Appellant's contention on appeal

that he requested an adjournment to await his counsel. Appellant did not at any time during the hearing request counsel. When the Examiner asked Appellant, at the beginning of the hearing, if he desired counsel or wished to represent himself, Appellant replied that he might as well represent himself. Hence, this contention is without merit.

Appellant's conviction before the United States District Court is res judicata and conclusive in this administrative proceeding since both actions are based upon the same fact or acts. 46 CFR 137.15-5(a).

The facts indicate that there was no element of self defense involved. In view of this and the serious nature of the offense as emphasized, by the two-year sentence imposed by the District Court, it is my opinion that the only appropriate order is one of revocation.

ORDER

The order of the Examiner dated at New York, New York, on 3 March 1958, is AFFIRMED.

J. A. Hirshfield
Rear Admiral, United States Coast Guard
Acting Commandant

Dated at Washington, D. C., this 20th day of August, 1958.